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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,272	04/06/2001	James M. Lipton	259/058	6351

22249   7590   09/23/2002

LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

EXAMINER
SPECTOR, LORRAINE

ART UNIT	PAPER NUMBER
1647	

DATE MAILED: 09/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

<table>
<tr><td colspan="2">Office Action Summary</td><td>Application No.
09/828272</td><td>Applicant(s)
Lipton et al.</td><td></td></tr>
<tr><td></td><td></td><td>Examiner
Lorraine Spector</td><td>Art Unit
1647</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____1____ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on ___3/12/02___ .

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) ___1 - 38___ is/are pending in the application.

  4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims ___1-38___ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

  If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a) ☐ All b) ☐ Some* c) ☐ None of:

    1. ☐ Certified copies of the priority documents have been received.

    2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

  a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

4) ☐ Interview Summary (PTO-413) Paper No(s). _____

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

DETAILED ACTION

Election/Restriction

This application contains claims directed to the following patentably distinct species of the claimed invention:

FOR THE "POLYPEPTIDE WITH A TERMINAL SEQUENCE KPV":

1) SEQ ID NO: 1,

2) SEQ ID NO: 2,

3) SEQ ID NO: 3, and

4) SEQ ID NO: 4.

FOR THE "ANTI-INFLAMMATORY AGENT":

a) beclomethasone diproprionate,

b) betamethasone,

c) cortisone,

d) dexamethasone,

e) fluocinonide,

f) hydrocortisone,

g) methylpredinisolone,

h) prednisolone,

I) prednisone,

j) triamcinolone,

k) aspirin,

l) diflusinal,

m) fenoprophen calcium,

n) ibuprophen,

o) indomethacin,

p) meclofenamate sodium,

q) naproxen,

r) phenylbutazone,

s) piroxicam,

t) sulindac, and

u) tolmetin sodium.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species {one from 1)

to 4) **and** one from a) to u)} for prosecution on the merits to which the claims shall be restricted

if no generic claim is finally held to be allowable. Currently, claim 1 is an example of a generic

claim.

Applicant is advised that a reply to this requirement must include an identification of the

species that is elected consonant with this requirement, and a listing of all claims readable thereon,

including any claims subsequently added. An argument that a claim is allowable or that all claims

are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims

to additional species which are written in dependent form or otherwise include all the limitations

of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election,

applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct,

applicant should submit evidence or identify such evidence now of record showing the species to

be obvious variants or clearly admit on the record that this is the case. In either instance, if the

examiner finds one of the inventions unpatentable over the prior art, the evidence or admission

may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an

election of the invention to be examined even though the requirement be traversed (37 CFR

1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the

inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently

named inventors is no longer an inventor of at least one claim remaining in the application. Any

amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the

fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Lorraine Spector, Ph.D., whose telephone number is (703) 308-1793.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Gary Kunz, Ph.D., can be reached on (703) 308-4623.

Official papers filed by fax should be directed to (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Elizabeth C. Kemmerer

ELIZABETH KEMMERER
PRIMARY EXAMINER

ECK

September 23, 2002